



PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Edward M. SELLERS et al.

Application Number: 09/584,669

Filed: June 1, 2000

For: THERAPEUTIC AND DIAGNOSTIC METHODS DEPENDENT ON CYP2A
ENZYMES

Group Art Unit: 1651

Examiner: M. MELLER

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:


In response to the Restriction Requirement issued July 27, 2001, in the subject application, Applicants hereby elect the claims of Group III, "drawn to a method of using a composition and nicotine," with traverse. Applicants also respectfully request that the time for response be extended for two (2) months and authorize the Commissioner to charge the extension fee for a two-month extension of time to undersigned Deposit Account No. 50-1640. Accordingly, the period for response is extended to run to and until October 27, 2001.

Applicants respectfully submit that claim 24, identified as Group IV in the outstanding Restriction Requirement is drawn to a kit specifically adapted for use in the method of claim 22, elected herein.

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01 FC:116 400.00 CH It is asserted in the Office Action that Group IV is drawn to an apparatus which can be used either for the process of nicotine replacement or for a materially different process such as treatment of wounds. Nothing in the present application, or the art, or any thing in the Restriction Requirement suggests how the claimed kit could be used for the treatment of wounds. Therefore, restriction between claim 22 and claim 24 is not supported under restriction practice (MPEP § 806.05(e)). Furthermore, Examiner has acknowledged that claim 22 and claim 24 have the same classification. Therefore, restriction for examination purposes is improper.

Furthermore, Applicants point out that claims 4-6 are also drawn to a method of using a composition and nicotine as identified for Group III, and claim 19 is drawn to a composition comprising a substance which reduces the activity of a CYP2A enzyme and nicotine is likewise adapted for use in a method of using such composition and nicotine as identified for Group III. It is submitted that the subject matter of claims 4-6 and 19 should likewise be classified in class 424, subclass 725, and the search for this subject matter would be identical to the search for Group III. Therefore, Applicants respectfully request that Group III be redrawn to include claims 4-6, 19, and 22-24.

The Restriction Requirement issued July 27, 2001, also required an election of species. Applicants here by elect methoxsalen. Claims 4-6, 19, and 22-24 read on this species. 

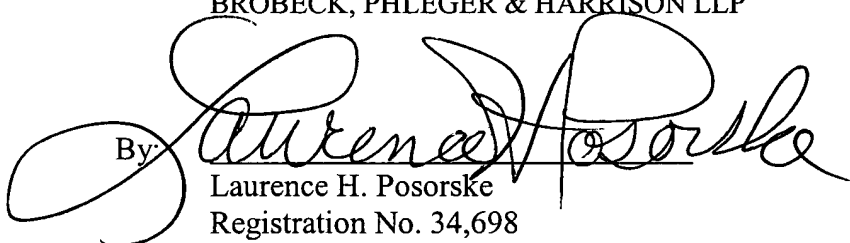
If the Examiner feels that any issues concerning this Restriction Requirement could be resolved by a telephone conference, Applicants respectfully request that the Examiner contact the undersigned representative at 202-220-5251.

Respectfully submitted,

BROBECK, PHLEGER & HARRISON LLP

October 26, 2001

By



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